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ARIZONA ATTORNEY GENERAL**

February 9, 1959

Honorable W. L. "Tay" Cook
Speaker of the House of Representatives
State House
Phoenix, Arizona

Dear Mr. Speaker:

I regret that illness has caused delay in my answering your inquiry as to the authority of the State Land Commissioner to place signs upon state lands leased by you and to collect the rental for the privilege of placing signs upon such lands.

I do not have before me the executed lease or leases between yourself and the State Land Commissioner with respect to the state lands which you now hold under lease and which are involved in this inquiry. I do have before me a standard form of lease prescribed by the State Land Commissioner and forms of conditions also prescribed by the State Land Commissioner which are attached to such leases, which I assume are similar to the leases executed between yourself and the State Land Commissioner.

The form of grazing lease, in part, prescribes as follows:

" IT IS HEREBY FURTHER COVENANTED AND AGREED that all of the covenants, conditions and agreements, together with the description of the land included in this lease, contained in the supplemental sheet or sheets attached hereto shall be, become and are part of the lease, the same as though set forth in full over the signatures of the contracting parties hereto."

Included in the Rules and Regulations adopted by the State Land Commissioner, pursuant to the Administrative Procedure Act, is Article IX, Subchapter B, Chapter II, governing special use permits. Rule 10 thereof provides, in part, as follows:

" USE OF STATE LANDS. No permittee shall use lands under permit to him except for the purpose for which the permit is issued, unless authorized by the Commissioner in writing.

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Rules 13 and 14 of such Rules and Regulations, provide as follows:

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RULE 13

APPLICATIONS FOR ADVERTISING DISPLAY PERMITS.

(a) Applications for permits must be executed upon Land Division form No. A-73-3. Each application must contain a sufficient recital of the facts relative to the advertising display, including its size and lighting effect, if any, to enable its substantial production from the description. A sketch showing the location on which the display is to be placed with respect to adjacent physical features should be furnished. The application should identify the highway or other medium of travel along which it is proposed to erect the display and should give the distance and direction of the site, measured by highway travel, to the nearest cities or towns. If the land on which it is desired to place the display has been surveyed, its description should be given in terms of the public land surveys. "

"

RULE 14

FEEES AND RENTALS FOR ADVERTISING DISPLAY PERMITS.

(a) A fee of \$1.00 must accompany each application for an advertising display permit.
(b) The initial and annual charges for advertising displays shall be as follows: Not less than ten cents (10¢) per annum for each square foot of sign surface and not less than \$2.50 per annum for each display. The amount of the charge, subject to such minima, will be fixed by the Commissioner, which in no event will be less than the appraised rental value for such use.

Due consideration will be given in fixing the amounts to all pertinent facts and circumstances, including the charges made for corresponding privileges on privately owned lands similarly situated.

(c) When conflicting applications are filed, due consideration will be given to the showing of each applicant and such action will be taken as is deemed to be warranted by the facts and circumstances."

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Therefore, in accordance with the terms and conditions of the forms of leases executed by the State Land Commissioner and lessees, the control of advertising displays is reserved to the State Land Commissioner and by the terms and conditions of such leases the lessee relinquishes to the State Land Commissioner control over advertising displays, who fixes the fees in connection with such displays which are payable to the State Land Commissioner and become a part of the state land funds.

Respectfully yours,

WADE CHURCH
The Attorney General

LCH/lw

LESLIE C. HARDY
Chief Asst. Atty. General